IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 1230 of 1981

For Approval and Signature:

HON'BLE MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

VALJIBHAI SONDABHAI BABARIA

Versus

UNION BANK OF INDIA

Appearance:

1. First Appeal No. 1230 of 1981

MR PV HATHI for Petitioner No. 1-2

MR TH SOMPURA for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE M.C.PATEL

Date of decision: 05/04/2004

ORAL JUDGEMENT

1. The respondent Bank sued the appellants to recover Rs.12,813-75 with interest at the rate of 12 %.

According to the bank the appellant No.1 had obtained loan of Rs.16,000/- on 8-10-1973 and the respondent no.2 stood as a guarantor.

2. The defence of the appellant No.1 was that he had relations with the manager of the bank and at his instance he had signed some documents, but he was not told that his signature was taken on any docuemnt for loan and that he was illiterate. The appellant No.2 also denied that he has signed and executed any guarantee.

3. Learned Judge after recording the evidence found that there was no substance in the defence pleaded by the appellants and passed the decree as prayed for.

4. The appellants have therefore filed this appeal. It appears that the appeal was admitted in view of the contention raisd at the time of admission that the suit was not maintainable in view of the provisions of Gujarat Public Monies (Recovery of Dues) Act, 1979. However, subsequently in BANK OF BARODA V. THAKKAR CHANDULAL ISHWARBHAI & OTHERS (1985 G.L.H. 1204) it was held by this Court (Coram: M.B. Shah, J, as he then was) that a suit of the present nature filed by the bank against any person for recovery of loan, advance or credit was maintainable and it would not abate. Hence the said contention now does not survive. On merits there is no substance in the appeal. The apeal is therefore dismissed. No order as to costs.

Dt: 5-4-2004 (M.C. Patel, J)

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